IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 555 (L) NO. 2006

Carona Limited & ors. ... PETITIONERS

V/s.

Union of India & ors. ... RESPONDENTS

Mr. C.U. Singh, Sr. Counsel with M.S. Sone Singh & Mr. Sanjay Udeshi i/b. Sanjay Udeshi & Co. for the Petitioner.

Mr. Y.R. Mishra with Mr. N.R. Prajapati for Respondent No.1.
Mr. Manish Desai with Ms. Soumya Menon & Bidushi Handige i/b. Paras Kuhad & Associates for Respondent No. 2.
Ms. Nerissa Britto for workers.

CORAM : F.I. REBELLO,
ANOOP V. MOHTA, JJ.

DATED : 14th March, 2006

P.C.

. Rule. Heard forthwith.

2. It is a case of the petitioners that they have arrived at one time settlement with respondent No. 2. Before the terms could be effected, respondent No. 2 had issued notice u/s 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It is their further case that if the notice is given effect, then the appeal pending before AAIFR would be rendered infructuous.

AAIFR has been approached by the petitioners pursuant to the order passed by the BIFR.

3. It appears that though appeal was preferred, as there was no Appellate authority, the petitioner approached the Delhi High Court. The issue was pertaining to surrender of tenancy right by the petitioners in respect of which they have received a sum of Rs. 1.62 crores. By order dated 06.01.2004, the learned Bench of Delhi High Court was pleased to direct that said amount to be deposited with the Bank of India, Respondent No. 2 herein in a No Lien account. The petitioners were also further directed to deposit further amount out of which they have deposited a sum of Rs. 10 lacs. Out of that amount, a sum of Rs. 24 lacs have been deposited before the Apex Court and Rs. 80 lacs were directed to be withdrawn and to be paid towards workers dues. There remains a balance of Rs. 68 lacs in that account.

4. The present petition is to challenge the notice under Section 13(2) of the said Act as also for directions in the matter of release of sum of Rs. 60 lacs to Respondent No.2 under OTS settlement.

5. On behalf of their workers the learned counsel

also pointed out that though workers have received some amounts, P.F. Commissioner has restrained withdrawing of further amounts. On behalf of Respondent No.2, their learned Counsel points out that order has been stayed by this Court by order in Writ Petition No. 2376 of 2004.

6. After hearing the parties, it appears that if sum of Rs. 60 lacs is paid to respondent No. 2, the OTS could go through. However, as the matter is pending before AAIFR, it would not be proper on the part of this Court at this stage to issue any direction but direct the parties to move AAIFR for issue necessary directions in the matter. The petitioners and respondent No. 2 and other interested can move AAIFR for necessary directions in the matter of release of sum of Rs. 60 lacs from the No Lien account. Considering that the present petition is being disposed of by issuing the following directions.

i. Respondent No. 2 is directed not to proceed with the Notice dated 20.11.2005 for a period of six weeks from today.

ii. Parties to move AAIFR within one week from today.

iii. On such application being moved, AAIFR to dispose of the application not later than four weeks of parties for moving, considering that success of the OTS depends on the release of amount in the No Lien Account.

iv. AAIFR to hear all the parties who are before it including workers.

v. It is further made clear that in the event AAIFR does not permit release of the sum of Rs. 60 lacs, it will be open to the respondent No. 2 to proceed with the notice issued u/s 13(2) of the Securtisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 after expiry of said period of six weeks.

7. Petition stands disposed of. Rule made absolute accordingly. No order as to costs.

8. All parties to act on the copy authenticated by the Associate.

[F.I. REBELLO,J.]

[ANOOP V. MOHTA, J.]